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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,339	01/20/2004	Hari Babu Sunkara	CL1483 US CNT	9809

7590 10/06/2005

E. I. du Pont de Nemours & Company  
Legal - Patent  
1007 Market Street  
Wilmington, DE 19894

EXAMINER

KEYS, ROSALYND ANN

ART UNIT	PAPER NUMBER
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1621

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/760,339

Applicant(s)

SUNKARA ET AL.

Examiner

Rosalynd Keys

Art Unit

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,20-24,46-63,65-72 and 74-98 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,20-24,46-63,65-71,78-82,86-88,91,92 and 96 is/are allowed.
- 6) ☒ Claim(s) 72,74-77,83-85,89,90,93-95,97 and 98 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Status of Claims*

1. Claims 1, 20-24, 46-63, 65-72, and 74-98 are pending.  
Claims 1, 20-24, 46-63, 65-71, 78-82, 86-88, 91, 92, and 96 are allowed.  
Claims 72, 74-77, 83-85, 89, 90, 93-95, 97 and 98 are rejected  
Claims 2-19, 25-45, 64, and 73 are cancelled.

### *Continued Examination Under 37 CFR 1.114*

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 1, 2005 has been entered.

### *Double Patenting*

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 72, 74-77 and 97 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 33-39 of U.S. Patent No.

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6,720,459 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because the 2 or more reaction stages of the instant claims encompass the 3-30 stages disclosed in claim 34 of U.S. Patent No. 6,720,459.

5. Claim 83-85, 89, 90, 93-95 and 98 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 10, 11, 33, 34 and 39 of copending Application No. 09/738,688 (US 2002/0007043 A1). Although the conflicting claims are not identical, they are not patentably distinct from each other because it is well established that batch and continuous processes are not patentably distinct. See *In re Dilnot*, 319 F. 2d 188, 138 USPQ 248 (CCPA 1963).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

#### ***Response to Amendment***

6. The rejection of claims 1, 20-24, 47-63, 66-71, and 78-95 under 35 U.S.C. 103(a) as being unpatentable over Morris et al. (US 2,520,733) in view of Wagner et al. (WO 98/37123, which is equivalent to US 6,187,898 B1) is withdrawn due to the amendment to claim 1, filed July 1, 2005, which requires the reaction to take place in a column reactor.

7. The rejection of claim 64 under 35 U.S.C. 101 as claiming the same invention as that of claims 19 and 20 of prior U.S. Patent No. 6,720,459 B2 is withdrawn, since this claim has been cancelled.

#### ***Allowable Subject Matter***

8. The indicated allowability of claims 72-77 is withdrawn, since these claims as amended are unpatentable over claims in commonly owned U.S. Patent No. 6,720,459 B2.


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9. Claims 1, 20-24, 46-63, 65-71, 78-82, 86-88, 91, 92, 96 are allowed.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosalynd Keys whose telephone number is 571-272-0639. The examiner can normally be reached on M and F 3:00-8:00 pm and T-TR 5:30-10:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Rosalynd Keys  
Primary Examiner  
Art Unit 1621

October 2, 2005